REMARKS

OVERVIEW

Claims 1-28 are pending in the present application. The most recent Office Action acknowledges that the prior rejections have been overcome but introduces new grounds of rejection based on newly cited art.

This response is an earnest attempt to advance prosecution of the present application. Reconsideration is respectfully requested.

RESPONSE TO ARGUMENTS

Applicants gratefully acknowledge that the Examiner has found the prior rejections to be overcome. The rejections based on Walker, U.S. Patent 6,553,346; Lindsey, U.S. Patent 5,285,383; Smith, U.S. 5,963,952; and the other cited references have been withdrawn. This response addresses the new grounds of rejection based on the newly cited references.

CLAIM OBJECTION

Applicants gratefully acknowledge that the objection previously raised regarding claim 25 has been withdrawn.

OBVIOUSNESS REJECTIONS

The sole new rejection is based on the Examiner's position that claims are obvious based on the newly cited combination of the 1994 "Commodity Trading Manual" by the Chicago Board of Trade ("Manual") in view of Hunt et al. U.S. Patent 5,724,524 ("Hunt"). This rejection is respectfully traversed.

The Manual and Hunt do describe computerized systems related to commodities. However, both relate to variations or versions of a conventional commodities exchange. Specifically, both relate to versions of having a centralized exchange where a centralized entity (e.g. the board of trade in the Manual or a "system operator" in Hunt) brokers financial instruments.

The Manual describes "a location for buyers and sellers to meet and, through an open outcry auction process" discover a price for "specific futures and options contracts." (Manual, page 35, first paragraph) Whether live or through an electronic trading system "...only exchange members have the privilege of actually trading on the floor." (page 35, second paragraph). The exchange is the centralized entity to price these financial instruments, and then facilitate buy and sell of financial instruments.

Similarly, Hunt specifically describes a method and system for creating and pricing financial derivatives (financial instruments) pertaining. It describes the risk and financial burden of transportation companies relative to maximizing shipping capacity. Hunt basically uses a similar paradigm to that of the Manual to put a value on shipping contracts and essentially trade on financial instruments related to those contracts. As explained at Hunt column 2, lines 58-67, an object of Hunt is to "shift the financial burden of capacity through the financial markets by providing an opportunity to hedge against the future." Hunt describes the ability of a transportation company or carrier to most efficiently plan its use of its capacity in the future by locking into contracts to be performed in the future but hedge against the inability to meet those contracts by allowing the carrier to, if needed, purchase capacity from another carrier. See Hunt column 11, lines 40-54. The carrier can try to maximize its capacity with the ability to purchase capacity from another carrier. The other party also hedges against over-booking of capacity by obligating the carrier to purchase acceptable capacity if it can't meet its obligation. Thus, like the Manual, Hunt

teaches a variation or version of a financial instrument exchange whereby basically anonymous buyers and sellers use a third party (the exchange) to broker the buying and selling of financial instruments.

In contrast, most of Applicants' claims define a much different paradigm. As described in Applicants' specification, most of Applicants' independent claims pertain to improving the initiation and management of forward contracting of agricultural commodities. See, e.g., title of application and page 1 of Applicants' Specification.

Applicants' claims and Specification relate not to forming a market for financial instruments but rather a more efficient way for buyers looking for specific agricultural products to form contracts with specific suppliers or producers of those agricultural products. This distinction is perhaps best illustrated by the examples in Applicants' Specification.

Consider the example of a company that will need a consistent and relatively large quantity of high oil corn across a future time period. See, Applicants' Specification, page 6. The state of art method for pursuing that corn would be to send buyer representatives to identify suppliers such as farmers or grain elevators and attempt to consumate a set of specific forward contracts with them. A part of managing that procedure would include seeking contracts from multiple suppliers in different geographic areas. Some of these buyers require so much quantity that one supplier is insufficient. Thus, the buyer personnel have to be cover substantial geographic area and spend substantial amounts of time, effort, and resources to identify and obtain these plural forward contracts.

One aspect according to Applicants' specification is set forth in the method of Applicants' claim 1. The method specifically calls out "facilitating the contracting of agricultural commodities using the Internet". Claim 1 describes a method of trying to form contracts between a buyer and

one or more suppliers. This is in direct contrast with the Manual and Hunt, which utilize a centralized exchange to price and then trade financial instruments.

Applicants' claim 1 specifically calls out use of the Internet and a web server as the mechanism to carry out the method. The Office Action alleges that the Manual and Hunt teach the same. However, such was not seen in those references. No specific mention of using the Internet as a communication web was seen in the Manual. Hunt describes a system controller 12 having a number of entry points. The specific teaching of using the Internet was not seen.

Applicants' claim 1 specifically describes the combination of storing types and amounts "desired" by a buyer, and then specific input from a supplier regarding type and amount the supplier is "willing to supply to a buyer at harvest or at other times". Applicants' claim then specifies "generating a contract for the sale of the specific type and amount of the commodity by the supplier to the buyer". Claim 1 thus describes a combination of steps aimed towards <u>initiating</u> a contract between a specified buyer and a specified supplier. Instead of having geographically dispersed workers calling upon farmers and elevators around the country and trying to cover the buyer's future demand for corn, Applicants' claim 1 allows a buyer to post its desired needs and then any of a number of suppliers post what they would be <u>willing to</u> supply relative that buyer. A buyer can then look at what amount of its demand can be satisfied by individual suppliers and can move forward to try to lock those selected in. Applicants' specification, page 7, lines 29-33. Conversely, any supplier can look atwhat the buyers that are calling for and indicate a preliminary willingness to sell a quantity or quantities to one or more buyers. At that point claim 1 describes <u>generation of a contract</u> that can then be considered by the buyer and seller. The buyer and seller can look at the generated proposed contract, evaluate that contract in light of any other contracts they may be considering or have already agreed to, and then make a decision of whether to accept

that contract. See, e.g. Applicants' Specification, page 7, line 16. Again, claim 1 speaks towards trying to <u>initiate</u> contracting between a buyer and a seller.

Applicants' Specification describes in detail why such a system improves upon the state of the art system. It also describes specifically the advantages of this paradigm relative to initiating the procedure to move towards an executed contract between buyer and seller.

As to the latter point, Applicants' Specification describes how the method of claim 1 avoids having geographically-dispersed personnel physically traveling to, contacting, managing, and juggling different potential contracts with different potential suppliers. The state of the art method involved these workers communicating with a variety of suppliers and negotiating separate proposed agreements. The workers would have to deliver proposed agreements, follow up on them, and keep track of which ones are accepted, rejected, or "pending". This method involved substantial burdens. It also introduced substantial uncertainty because it was difficult for a larger buyer to know at any moment in time the precise status of its desired demand. In other words, there were inevitable time lags between the buyer's workers communicating to the buyer the amount of its demand which was locked in through contracts, what amount was pending, and what remained. Claim 1, on the other hand, would allow a buyer to essentially have a central clearinghouse for managing potential forward contracts. It gave suppliers the ability to watch how buyer demands were being met. For example, as described in Applicants' Specification, a supplier could watch buyer demands, wait until the markets provided a better price, and then lock in with the buyer. These subtleties are not taught or suggested by either the Manual or Hunt. Both relate to commodities and gathering information about commodities. But the purpose is to create pricing or valuation for financial instruments or contracts that then are sold in a commodities exchange manner. It is pointed out, again, that Applicants' claim 1, for example, is describing an improved

way to initiate the possible contracting between a buyer and a seller. The Manual and Hunt speak towards a large system for pricing financial instruments or contracts which are then bought and sold in an exchange format. The financial instruments can be bought or sold unilaterally. In direct contrast, Applicants' claim 1, for example, is aimed towards facilitating generation of a proposed contract that requires acceptance by both the buyer and seller.

It is therefore respectfully submitted that the combination of the Manual and Hunt does not present a *prima facie* case of obviousness. They do not teach or suggest Applicants' claim 1 as a whole.

Claims 2-12 are dependent on independent claim 1 and submitted to be patentable for the reasons expressed in support of claim 1.

Applicants' independent claim 13 is similar to claim 1 but is more specific regarding quantity (e.g. acres or bushels) of agricultural crops. It is submitted to be allowable for the reasons expressed in support of claim 1.

Claims 14-23 are dependent from claim 13 and submitted to be allowable for the reasons expressed in support of claim 13.

Independent claim 24 is a method of how data can be handled over the Internet. It is respectfully submitted the specifics are nowhere disclosed, taught or suggested in either the Manual or Hunt or any combination of their teachings.

Independent claim 25 is an apparatus claim having parallel limitations to claim 1. It is submitted to be patentable over the cited references for the reasons expressed in support of claim 1.

Independent claim 26 is an apparatus claim that is a different way of describing the arrangement that facilitates formation of contracts for agricultural commodities. It is submitted to be allowable over the cited references for the reasons expressed in support of claim 1.

Claims 27 and 28 are dependent on claim 26 and submitted to be allowable for the reasons expressed in support of claim 26.

CONCLUSION

It is respectfully submitted that the cited references simply are addressing a different problem in a different context than the claimed invention. Reconsideration and allowance of the claims is respectfully requested.

This is a request under the provision of 37 CFR § 1.136(a) to extend the period for filing a response in the above-identified application for one month from May 21, 2008 to June 21, 2008. Applicant is a small entity; therefore, please charge Deposit Account number 26-0084 in the amount of $60.00 to cover the cost of the three-month extension. Any deficiency or overpayment should be charged or credited to Deposit Account 26-0084. It is not believed that any additional fees or any extensions of time are required for entry of this response, however, if any has been inadvertently overlooked, please consider this a request therefore and charge any required fees to Deposit Account No. 26-0084.

Reconsideration and allowance is respectfully requested.

Respectfully submitted,

MARK D. HANSING, Reg. No. 30,643
McKEE, VOORHEES & SEASE, P.L.C.
801 Grand Avenue, Suite 3200
Des Moines, Iowa 50309-2721
Phone No: (515) 288-3667
Fax No: (515) 288-1338
CUSTOMER NO: 22885
Attorneys of Record

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